

1 MORGAN, LEWIS & BOCKIUS LLP  
2 DIANE L. WEBB (State Bar No. 197851)  
3 ANDREW M. PURDY (State Bar No. 261912)  
4 One Market, Spear Street Tower  
5 San Francisco, CA 94105-1126  
6 Tel: 415.442.1000  
7 Fax: 415.442.1001  
8 Email: dwebb@morganlewis.com  
9 apurdy@morganlewis.com

10 Attorneys for Defendant  
11 HEWLETT PACKARD COMPANY

12 GLANCY BINKOW & GOLDBERG LLP  
13 LIONEL Z. GLANCY (State Bar No. 134180)  
14 ROBERT V. PRONGAY (State Bar. No. 270796)  
15 1925 Century Park East  
16 Suite 2100  
17 Los Angeles, CA 90067-2722  
18 Tel: 310.201.9150  
19 Fax: 310.201.9160  
20 Email: info@glancylaw.com  
21 rprongay@glancylaw.com

22 KIRBY MCINERNEY LLP  
23 IRA M. PRESS (Admitted *Pro Hac Vice*)  
24 SARAH G. LOPEZ( Admitted *Pro Hac Vice*)  
25 825 Third Avenue  
26 New York, NY 10022  
27 Tel: 212.317.6600  
28 Fax: 212.751.2540  
Email: ipress@kmlp.com  
slopez@kmlp.com

Attorneys for Plaintiff  
CEMENT & CONCRETE  
WORKERS DISTRICT COUNCIL PENSION FUND

[Caption Continued on Next Page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CEMENT & CONCRETE WORKERS  
DISTRICT COUNCIL PENSION FUND,

Case No. CV12-04115 PJH

**STIPULATION AND [PROPOSED]  
ORDER RESETTING DATES IN**

1 Plaintiff,  
 2 v.  
 3 HEWLETT PACKARD COMPANY and  
 4 MARK A. HURD,  
 5 Defendants.

**COURT'S ORDER SETTING INITIAL  
 CASE MANAGEMENT  
 CONFERENCE AND RELATED  
 DEADLINES**

**[CIVIL L.R. 6-2, 7-12]**

6  
 7 Pursuant to Civil Local Rules 6-2 and 7-12, the parties who have appeared in this action to  
 8 date – plaintiff Cement & Concrete Workers District Council Pension Fund (“Plaintiff”) and  
 9 defendant Hewlett Packard Company (“HP,” and with Plaintiff, the “Parties”) – hereby agree and  
 10 stipulate that good cause exists to request an order from the Court rescheduling the Parties’ Initial  
 11 Case Management Conference, set pursuant to this Court’s August 7, 2012 Order (Document No.  
 12 6) (the “August 7, 2012 Order”), and to adjust accordingly the related deadlines set forth therein.

**RECITALS**

13  
 14 WHEREAS, Plaintiff’s putative class action complaint, filed August 3, 2012  
 15 (“Complaint”), alleges that HP and Mr. Hurd violated Section 10(b) of the Securities Exchange  
 16 Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder, and that Mr. Hurd has  
 17 violated Section 20(a) of the Exchange Act.

18 WHEREAS, under the Private Securities Litigation Reform Act of 1995 (“PSLRA”),  
 19 when a putative class action alleging securities fraud is filed, a process must be followed whereby  
 20 the plaintiff gives notice to the putative class, motion(s) for appointment of lead plaintiff are filed,  
 21 and the Court appoints lead plaintiff(s) and approves the selection of lead counsel. 15 U.S.C. §  
 22 78u-4(a).

23 WHEREAS, Plaintiff provided notice to the putative class, and on October 16, 2012,  
 24 Retail Wholesale & Department Store Union Local 338 Retirement Fund, represented by the  
 25 same counsel who currently represents Plaintiff, filed a motion for appointment of lead plaintiff  
 26 and approval of selection of lead counsel and liaison counsel, setting a hearing date of November  
 27 28, 2012. Plaintiff Cement & Concrete Workers District Council Pension Fund did not file a  
 28 motion for appointment as lead plaintiff.

1 WHEREAS, on October 15, 2012, Plaintiff requested that HP waive service of the  
 2 summons and complaint in this action. The waiver sets forth that HP must file and serve and  
 3 answer or motion under Federal Rule of Civil Procedure 12 by December 14, 2012. HP executed  
 4 the waiver on October 16, 2012, and it was electronically filed the same day by Plaintiff.

5 WHEREAS, defendant Mark Hurd has not yet been served or appeared in this action.

6 WHEREAS, the August 7, 2012 Order directs the Parties to meet, confer and complete  
 7 initial disclosures prior to Plaintiff serving all parties, and prior to any of the causes of action  
 8 being at issue. The Parties believe it is in their best interest to postpone any such disclosures until  
 9 such time that all defendants have been served, lead plaintiff has been appointed, lead plaintiff's  
 10 selection of lead counsel has been approved, lead plaintiff has filed any amended complaint, HP  
 11 has had the opportunity to file any motion to dismiss under the heightened pleading standards of  
 12 the PSLRA, and the Court has ruled on HP's anticipated motion to dismiss. Any disclosures and  
 13 negotiations about ADR or a discovery plan would be premature at this time as the Court has not  
 14 yet appointed lead plaintiff or approved the selection of lead counsel, and it is unclear whether the  
 15 pending complaint will be the operative complaint.

16 WHEREAS, the Parties further believe that postponement of initial disclosures and any  
 17 discussions about discovery at this time is proper because the PSLRA stays all discovery and  
 18 other proceedings, including initial disclosures, pending the disposition of motions to dismiss in  
 19 securities actions such as this one. *See Medhekar v. United States Dist. Court*, 99 F.3d 325, 328-  
 20 29 (9th Cir. 1996) (holding F.R.C.P. 26(a)'s initial disclosure requirements are disclosures or  
 21 other proceedings for purposes of PSLRA's stay provision, and must be stayed pending  
 22 disposition of motion to dismiss).

23 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the  
 24 respective parties hereto, that:

25 1. HP shall not be required to, and shall not waive any rights, arguments or defenses  
 26 by waiting to answer, move or otherwise respond to the Complaint in this action until after the  
 27 appointment of a lead plaintiff pursuant to 15 U.S.C. §78u-4(a)(3)(B) and after the filing by such  
 28 lead plaintiff of an amended complaint (or statement of intent by such lead plaintiff to proceed on

1 the original Complaint).

2 2. Lead plaintiff shall either file an amended complaint, or state that it intends to  
3 proceed on the original Complaint, no later than 45 days after entry of an order appointing the  
4 lead plaintiff pursuant to §21D(a)(3)(B), 15 U.S.C. §78u-4 of the Securities Exchange Act of  
5 1934.

6 3. The time for HP to answer, move or otherwise respond to the amended complaint  
7 shall be 45 days from the filing of such lead plaintiff's amended complaint.

8 4. In the event HP files a motion to dismiss the amended complaint, lead plaintiff  
9 shall have 45 days from filing of such motion in which to file papers in opposition to the motion.  
10 HP shall have 21 days from the filing of lead plaintiff's opposition papers in which to file reply  
11 papers.

12 5. The Initial Case Management Conference shall be held 30 days after an order  
13 directing HP to file an answer (if any), or no later than August 31, 2013, or as soon as possible  
14 thereafter consistent with the Court's schedule. The Rule 26(f) conference between the Parties  
15 will take place no later than August 10, 2013 and the Joint Status Report will be submitted no  
16 later than August 17, 2013.

17 6. In the event the Court does not approve the proposed schedule set forth above, the  
18 Parties request that the Court reschedule the deadlines for the Rule 26(f) meet and confer, for  
19 filing the Rule 26(f) Report and the date of the Initial Case Management Conference to a time  
20 after the Court has ruled on HP's anticipated motion to dismiss.

21 7. This Stipulation is entered into without prejudice to any party seeking any interim  
22 relief.

23 8. Nothing in this Stipulation shall be construed as a waiver of any of HP's rights or  
24 positions in law or equity, or as a waiver of any defenses that HP would otherwise have,  
25 including, without limitation, jurisdictional defenses.

26 9. The Parties have not sought any other extensions of time in this action.

27 10. The Parties do not seek to reset these dates for the purpose of delay, and the  
28 proposed new dates will not have an effect on any pre-trial and trial dates as the Court has yet to

1 schedule these dates.

2 WHEREFORE, the Parties respectfully request that this Court issue an order granting the  
3 parties' request to reset the Initial Case Management Conference and related deadlines as set forth  
4 in the following [Proposed] Order.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

6 Dated: October 18, 2012

GLANCY BINKOW & GOLDBERG LLP

7  
8 By /s/ Robert V. Prongay  
9 Attorneys for Plaintiff  
10 CEMENT & CONCRETE  
WORKERS DISTRICT COUNCIL  
PENSION FUND

11 Dated: October 18, 2012

MORGAN, LEWIS & BOCKIUS LLP

12  
13 By /s/ Diane L. Webb  
14 Attorneys for Defendant  
HEWLETT PACKARD COMPANY

15  
16 **ORDER**

17 For good cause shown, it is so ORDERED. The case management conference is continued  
18 to August 29, 2013 at 2:00 p.m. A joint case management conference statement shall be  
19 filed by August 22, 2013.  
20 Date: October 22, 2012

21 UNITED STATES DISTRICT COURT  
22 Phyllis J. Hamilton  
23 IT IS SO ORDERED  
24 Judge Phyllis J. Hamilton  
25 DISTRICT COURT JUDGE  
26  
27  
28

**ATTESTATION**

Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Diane L. Webb, attest that concurrence in the filing of this document has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 18th day of October, 2012, at San Francisco, CA.

/s/ Diane L. Webb

Diane L. Webb